

## Article 44.

### Local Government Hold Harmless and Allocation Provisions.

**§ 105-515 through 105-520:** Repealed by Session Laws 2007-323, s. 31.16.4(a), effective October 1, 2009, and applicable to sales occurring on or after that date.

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**§ 105-521:** Repealed by Session Laws 2016-5, s. 5.2, effective May 11, 2016.

### **§ 105-522. City hold harmless for repealed local taxes.**

(a) Definitions. – The following definitions apply in this section:

- (1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.
- (2) Hold harmless amount. – The sum of the following amounts allocated for distribution to a municipality for a month. The references in this subdivision to Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of this Chapter do not include the adjustment made pursuant to G.S. 105-524. The amounts are as follows:
  - a. The amount of sales and use tax revenue allocated under G.S. 105-486. This calculation determines the effect of repealing a one-half percent (1/2%) sales and use tax distributed on a per capita basis.
  - b. An amount determined by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount of sales and use tax revenue allocated under G.S. 105-486. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis.

(b) Requirement. – A county is required to hold the eligible municipalities in the county harmless from the repeal of the local sales and use taxes formerly imposed under this Article. The Secretary must add an eligible municipality's hold harmless amount to the amount distributed to the municipality under this Subchapter. To obtain the revenue for the hold harmless distribution, the Secretary must reduce each county's monthly allocation under G.S. 105-472(b) or under Chapter 1096 of the 1967 Session Laws by the hold harmless amounts for the municipalities in that county. (2007-323, ss. 31.16.3(f), 31.16.4(c); 2007-345, s. 14.4(a); 2008-134, ss. 14(a), 15(c), (f), (g); 2015-268, s. 10.1(e3).)

### **§ 105-523. County hold harmless for repealed local taxes.**

(a) Intent. – It is the intent of the General Assembly that each county be held harmless from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

(b) Definitions. – The following definitions apply in this section:

- (1) City hold harmless amount. – The hold harmless amount determined under G.S. 105-522 for the eligible municipalities in a county.
- (2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year. A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.
- (3) Repealed sales tax amount. – The sum of the following amounts allocated for distribution to a county for a month. The references in this subdivision to Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of this Chapter do not include the adjustment made pursuant to G.S. 105-524. The amounts are as follows:
  - a. The amount of sales and use tax revenue allocated under G.S. 105-486. This calculation determines the effect of repealing a one-half percent (1/2%) sales and use tax distributed on a per capita basis.
  - b. An amount determined by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount of sales and use tax revenue allocated under G.S. 105-486. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis.

(c) Requirement. – If a county's repealed sales tax amount plus its city hold harmless amount for a fiscal year exceeds the county's hold harmless threshold for that fiscal year, the State is required to hold the county harmless for the difference by paying the amount of the difference to the county. The Secretary must withhold from sales and use tax collections under Article 5 of this Chapter the amount needed to make the county hold harmless payments required by this section.

(d) Method. – The Secretary must estimate a county's repealed sales tax amount, city hold harmless amount, and hold harmless threshold for a fiscal year to determine if the county is eligible for a hold harmless payment. The Secretary must send to an eligible county with the distribution made under G.S. 105-472 for March of that year an amount equal to ninety percent (90%) of its estimated hold harmless payment. At the end of each fiscal year, the Secretary must determine each county's hold harmless payment for that year. The Secretary must send by August 15 the remainder of the county's hold harmless payment for the fiscal year that ended on June 30. The Secretary of the Department of Health and Human Services must give the Secretary of Revenue the data needed to determine a county's hold harmless threshold by February 24th of each year, and the data needed for the final calculation of each county's hold harmless threshold by July 24th of each year. (2007-323, s. 31.16.4(d); 2007-345, s. 14.4(b); 2008-134, s. 15(a), (d), (f), (h); 2009-399, s. 4(a); 2010-95, s. 14; 2014-100, ss. 37.2(a)-(d); 2015-268, s. 10.1(e4).)

**§ 105-524. Distribution of additional sales tax revenue for economic development, public education, and community colleges.**

(a) Purpose. – The purpose of this section is to address sales tax leakage that results from the different revenue-raising capacity of local option sales taxes in each taxing jurisdiction. The amount to be distributed is determined under subsection (b) of this section. The amount each

county may receive is determined by the county's allocation percentage under subsection (c) of this section. The General Assembly must periodically review the allocation percentages.

(b) Distribution Amount. – The Secretary must calculate a distribution amount in conformity with this section. The Secretary must deduct this amount, in equal installments, proportionately from the collections to be allocated each month for distribution under Article 39 and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of this Chapter, excluding the revenue allocated under G.S. 105-469.

For the fiscal year beginning July 1, 2016, the distribution amount is eighty-four million eight hundred thousand dollars (\$84,800,000). For fiscal years beginning on or after July 1, 2017, the distribution amount is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage change of the total collection of local sales and use taxes levied under Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of this Chapter for the preceding fiscal year.

(c) County Allocation. – The Secretary must, on a monthly basis, allocate to each taxing county an amount equal to one-twelfth of the distribution amount calculated under subsection (b) of this section multiplied by the appropriate allocation percentage. If, after applying the allocation percentages in this section, the resulting total of the amounts allocated is greater or lesser than the net proceeds to be distributed, the amount allocated to each county shall be proportionally adjusted to eliminate the excess or shortage. The allocation percentages are as follows:

County	Allocation Percentage
Alamance	0.00%
Alexander	1.69%
Alleghany	0.31%
Anson	0.96%
Ashe	0.62%
Avery	0.00%
Beaufort	0.17%
Bertie	0.94%
Bladen	1.03%
Brunswick	0.00%
Buncombe	0.00%
Burke	2.19%
Cabarrus	0.00%
Caldwell	1.72%
Camden	0.48%
Carteret	0.00%
Caswell	1.35%
Catawba	0.00%
Chatham	1.58%
Cherokee	0.24%
Chowan	0.26%
Clay	0.32%
Cleveland	1.43%
Columbus	2.63%
Craven	1.01%
Cumberland	0.06%

Currituck	0.00%
Dare	0.00%
Davidson	4.96%
Davie	1.14%
Duplin	1.97%
Durham	0.00%
Edgecombe	1.86%
Forsyth	0.00%
Franklin	2.44%
Gaston	1.96%
Gates	0.68%
Graham	0.31%
Granville	1.87%
Greene	1.20%
Guilford	0.00%
Halifax	0.76%
Harnett	5.17%
Haywood	0.05%
Henderson	0.68%
Hertford	0.47%
Hoke	2.58%
Hyde	0.03%
Iredell	0.00%
Jackson	0.00%
Johnston	3.26%
Jones	0.63%
Lee	0.37%
Lenoir	1.56%
Lincoln	1.74%
Macon	0.00%
Madison	1.03%
Martin	0.31%
McDowell	0.68%
Mecklenburg	0.00%
Mitchell	0.29%
Montgomery	1.05%
Moore	0.00%
Nash	1.16%
New Hanover	0.00%
Northampton	0.94%
Onslow	1.10%
Orange	0.33%
Pamlico	0.40%
Pasquotank	0.02%
Pender	1.69%
Perquimans	0.50%

Person	0.74%
Pitt	0.16%
Polk	0.74%
Randolph	4.27%
Richmond	0.54%
Robeson	3.00%
Rockingham	2.18%
Rowan	3.90%
Rutherford	1.63%
Sampson	2.10%
Scotland	0.83%
Stanly	1.04%
Stokes	1.99%
Surry	0.00%
Swain	0.32%
Transylvania	0.16%
Tyrrell	0.15%
Union	4.35%
Vance	0.36%
Wake	0.00%
Warren	1.01%
Washington	0.33%
Watauga	0.00%
Wayne	2.27%
Wilkes	1.55%
Wilson	0.39%
Yadkin	1.31%
Yancey	0.52%.

(d) Use of Funds. – The amount allocated to a taxing county under this section must be divided among the county and its municipalities in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. The county must use the revenue it receives under this section for economic development, public education, and community college purposes.

(e) **(Repealed effective for fiscal years beginning on or after July 1, 2016)** State Contribution. – For fiscal years beginning on or after July 1, 2016, the Secretary must annually withhold, in equal monthly installments, seventeen million six hundred thousand dollars (\$17,600,000) from sales and use tax collections under Article 5 of this Chapter. The Secretary must allocate the monthly amount withheld under this subsection to the taxing counties as follows:

- (1) Fifty percent (50%) in the distribution made under Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws, not including the revenue allocated under G.S. 105-469.
- (2) Twenty-five percent (25%) in the distribution made under Article 40 of this Chapter, not including the calculation of the adjustment pursuant to G.S. 105-486(b).
- (3) Twenty-five percent (25%) in the distribution made under Article 42 of this Chapter.

(f) Taxing County. – For purposes of this section, the term "taxing county" means a county that levies the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

(g) Adjustments. – The adjustments made under this section to Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of this Chapter shall not be included in the calculations made under G.S. 105-469, 105-522, and 105-523. (2015-241, s. 32.19(b); 2015-268, s. 10.1(e1); 2016-94, s. 38.5(o).)

§ 105-525: Reserved for future codification purposes.

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§ 105-531: Reserved for future codification purposes.

§ 105-532: Reserved for future codification purposes.

§ 105-533: Reserved for future codification purposes.

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